

810-2-3-.14. Exclusion of Investments in Other Corporations Doing Business in Alabama. (REPEALED)

(1) Scope. This regulation applies to any exclusion from the total capital of a foreign corporation to which Section 40-14-41(d)(1), Code of Alabama 1975, applies and to the related supporting statements required to be filed pursuant to Section 40-14-44.

(2) Definitions. The following terms have the meanings ascribed to them for purposes of this regulation.

(a) Balance Sheet. A statement of financial position of a corporation, showing as at December 31, or fiscal year end, preceding the franchise tax year, its assets, at cost, depreciated cost, or other indicated value, its liabilities, and the equity of the shareholders in conformity with generally accepted accounting principles.

(b) Foreign Corporation. A corporation organized under the laws of any other state, nation or territory actively engaged in normal and recognized business activities.

(c) Investment in the Capital of Other Corporations. A direct investment in the capital stock of another corporation included in the taxpayer's balance sheet.

(d) Required to Pay Franchise Tax. Qualification in Alabama prima facie held to be doing business in Alabama is a rebuttable presumption. A foreign corporation, except strictly benevolent, educational or religious corporations, must be doing some business in Alabama before the franchise tax is applicable. The Alabama franchise tax is not laid on the bare right of a foreign corporation to exercise its corporate functions within Alabama. No franchise tax is required unless a foreign corporation is doing business in Alabama. If a foreign corporation voluntarily files and pays a franchise tax when not required to do so by the laws of Alabama or pays a minimal fee for qualification, organization or for the privilege of doing business in Alabama, but does not actually engage in business activity in Alabama, the foreign corporation is not "subject to" the franchise tax and is not, therefore, a foreign corporation required to pay a franchise tax to the state of Alabama.

(3) Purpose. The purpose of this regulation is to provide rules as to which investments by the taxpayer in the capital of other corporations are excludable from the amount of taxable capital.

(4) Exclusions. There shall be excluded from the total capital of the taxpayer as determined in Section 40-14-41(b) the following amounts:

(a) The investment by the taxpayer in the capital of other corporations organized under the laws of Alabama;

(b) The investment by the taxpayer in the capital of other corporations organized under the laws of any other state if such investee corporation is required to pay a franchise tax to the state of Alabama.

(5) Procedure. No exclusion shall be allowable unless the taxpayer (reporting corporation) submits supporting statements with its franchise tax return that evidences that the excluded investment qualifies as an exclusion under subsection (4). Such statements shall also provide the following with regard to each investee corporation:

- (a) Name;
- (b) State of incorporation;
- (c) Federal identification number;
- (d) Alabama franchise tax account number;
- (e) Amount of capital employed in Alabama;
- (f) Amount invested which is included on the taxpayer's balance sheet;

(6) Effective Date. The regulation applies to foreign corporations for the franchise tax year beginning January 1, 1995, and all franchise tax years thereafter.

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Authority: §§ 40-2A-7(a)(5) and 40-14-58

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